

Philip Bautista, Pro se  
C/o 1501 Front Street, #409  
San Diego, California state [92101]  
Non-domestic without US

FILED

08 APR 15 PM 12:58

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: CP DEPUTY

**IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**PHILIP BAUTISTA**  
Plaintiff

FEDERAL CASE NO.

**'08 CV 0685 BEN LSP**

Vs.

**BANK OF AMERICA &  
OLD REPUBLIC EQUITY CREDIT  
SERVICES**  
Defendant/Co-Defendant

**COMPLAINT FOR DAMAGES  
With SUPPLEMENTAL OF JURISDICTION  
Pursuant to 28 U.S.C. 1367**

COMES NOW Phillip Bautista (Plaintiff) as above stated with the following Complaint for Damages. Bank of America and Old Republic Equity Credit Services as Defendant and Co-Defendant. This Complaint for Damages is set forth the following grounds with: Statement of Federal Jurisdiction, Statement of Supplemental of Jurisdiction and Applicable law:

**STATEMENT OF FEDERAL JURISDICTION**

The U.S. District Court has jurisdiction over this complaint for damages for the following reasons: the dollar amount in controversy exceeds \$75,000, there is a federal question of law and there is diversity of jurisdiction.

CR

**STATEMENT OF SUPPLEMENTAL JURISDICTION**

The U.S. District Court has supplemental jurisdiction over any and all State Court claims and State Court related claims pursuant to 28 U.S.C. 1367.

**APPLICABLE LAW**

The following Applicable Statues are set forth in this Complaint for Damages as Mandatory Authority with respect to the U.S. Supremacy Clause, the Preemption Doctrine and the U.S. Constitution. Art. VI, Paragraph 2. The three following legal distinctive authorizes known, as Mandatory Authority, Controlling Authority and Supporting Authority are set forth herein.

**Mandatory Authority**

**(U.S. Supremacy Clause)**

(a) 28 USC 1367, 28 USC 1367(a), 28 USC1 367(e)(d), 11 USC 362(C), 12 USC 3752(1), 12 USC 3755, 12 USC 3752(3), 12 USC 3752(7), 12 USC 3758(1), 12 USC 3752(1), 12 USC 3758(1), 12 USC 3758(2)(A)(i), 12 USC 3758(3)(A), 12 USC 3757, 12 USC 3757(9), 12 USC 3757(10), 12 USC 3759(C), 12 USC 3765, 12 USC 3765(1), 12 USC 3765(2), 12 USC 3765(3), Title 15 Fair Debt Collections Act, 12 USC 1201(RESPA), Article 3 section 603 of the UCC.

The Plaintiff's enumerated complaint for damages respectfully shows the following:

1.

The Defendants did unlawfully violate 12 U.S.C. 3758(1) with foreclosure proceedings not giving 21 day notice prior to foreclosure.

2.

The Defendants did unlawfully violate Fair Debt Collections Act with Foreclosure proceedings.

3.

The Defendants did unlawfully violate 12 U.S.C. 3758(3)(A); not conducting publication during 3 successive calendar weeks before the date of foreclosure sale date.

4.

The Defendants did unlawfully violate 12 U.S.C. 3765(1); not making the plaintiff a notice recipient as required in 12 U.S.C. 3758(1).

5.

The Defendants did unlawfully violate 12 U.S.C. 3765(1); not making the plaintiff a notice recipient as required in 12 U.S.C. 3758(3)(A).

6.

The Defendants unlawfully did violate Article 3 section 306 of the Uniform Commercial Code foreclosure proceedings.

7.

The Defendants did unlawfully conduct a foreclosure proceeding below true market value of the property owned by the Plaintiff.

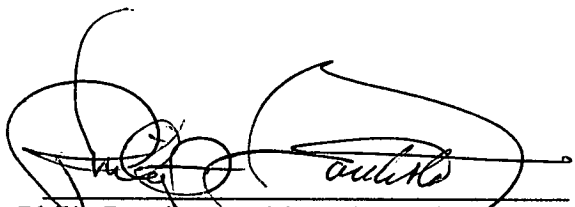
8.

The Defendants did unlawfully violate 11 U.S.C 362(c) foreclosure proceedings.

WHEREFORE the Plaintiff demands the following relief:

1. The honorable court award compensatory damages and punitive damages to Phillip Bautista in the amount of \$2,000,000 by entering a judgment against Bank of America.
2. This honorable court enters a judgment against Old Republic Equity Credit Services, Inc. \$500,000 for violation of the title 11 of the U.S. Bankruptcy Code with unlawful foreclosure proceedings.

1 3. Grant all relief this Court deems just and proper.  
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Philip Bautista, Petitioner/Appellant, Pro se

4-11-08

Philip Bautista, Pro se  
C/o 1501 Front Street, #409  
San Diego, California state [92101]  
Non-domestic without US

**IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**CERTIFICATE OF SERVICE**

I, Philip Bautista, certify that I have furnished a copy of this pleading via U.S. Postal Service, with sufficient postage to respondent located at the following address:

**Distribution List:**  
**Regional Trustee Services Corporation**  
**616 1<sup>st</sup> Avenue, Suite 500**  
**Seattle, WA 98104**

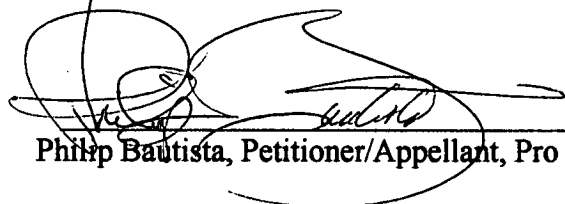
  
Philip Bautista, Petitioner/Appellant, Pro se

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C/o 1501 Front Street, #409  
San Diego, California state [92101]  
Non-domestic without US

**IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**VERIFICATION  
(Affidavit)**

The undersigned Affiant Phillip Bautista by appellation does here with swear, declare and affirm that the Affiant executes this Affidavit with sincere intent and competently states the matters set forth. I the undersigned being under oath and declare under penalty of perjury, that I do not have an attorney to represent me in this case. Also that the contents are true, correct and not misleading to the best of his knowledge.

 4-11-08  
Philip Bautista, Petitioner/Appellant, Pro se

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Philip Bautista, Pro se

vs.

BANK OF AMERICA

Case No. \_\_\_\_\_

**DECLARATION OF SERVICE**

Person Served:  
BANK OF AMERICA

Date Served: \_\_\_\_\_

I, the undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above named person the following documents:

in the following manner: (check one)

- 1) ☐ By personally delivering copies to the person served.
- 2) ☐ By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to their person served at the place where the copies were left.
- 3) ☐ By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of his office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 4) ☒ By placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Bonita, California  
on \_\_\_\_\_, 20

Executed on \_\_\_\_\_, 2008 at Bonita, Ca

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 149740 - MS**

**April 15, 2008  
13:02:00**

**Civ Fil Non-Pris**

USAO #: 08CV0685 BEN

Amount.: \$350.00 CK

Check#: PC1443

**Total-> \$350.00**

FROM: PHILIP BAUTISTA VS.  
BANK OF AMERICA & OLD REPUBLIC  
EQUITY CREDIT SERVICES

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Philip Bautista, Pro se

(b) County of Residence of First Listed Plaintiff SAN DIEGO  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Philip Bautista, Pro se, 1501 Front Street, #409  
San Diego, California state [92101]

**DEFENDANTS**

BANK OF AMERICA &amp; OLD REPUBLIC EQUITY CREDIT SERVICES

08 APR 15 PM 12:58  
County of Residence of First Listed Defendant

CLERK, U.S. DISTRICT COURT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney's (If Known)

08 CV 0685 BEN LSP

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

28 USC 1367  
COMPLAINT FOR DAMAGES.**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 149740 AMOUNT \$350

APPLYING IFF

JUDGE

MAG. JUDGE

ER